

**MICHAEL A. DEAN and
PAT EDMONDS,**

Plaintiffs,

VS.

Case No. 07-03298-CV-S-GAF

SUPT. MICHAEL BOXERSOX,
et al.,

Defendants.

ORDER

Presently before the Court is *pro se* Plaintiffs Michael A. Dean and Pat Edmonds (collectively “Plaintiffs”) “request that the Honorable Gary A. Fenner . . . voluntarily recuse himself from ruling on Plaintiffs’ request for reconsideration of the August 29, 2013, Order which granted summary judgment in this case.” (Doc. # 173). Defendants Supt. Michael Bowersox, Patricia Cornell, Don Roper, Ricky Fisher, Terrena Ballinger, Mike Kemna, Dwayne Kempker, Greg Hadley, Troy Wade, John – Rogers, Waylon Wilson, Kenneth Leeder, LaDonna M. Buckner, Princess Fahnestock, and Missouri Department of Corrections oppose.¹ (Doc. # 175).

“Recusal is required when an average person knowing all the relevant facts of a case might reasonably question a judge’s impartiality.” *Dossett v. First State Bank*, 399 F.3d 940, 953 (8th Cir. 2005) (citing *Moran v. Clarke*, 296 F.3d 638, 648 (8th Cir. 2002)). However, “[a]dverse judicial rulings . . . ‘almost never’ constitute a valid basis for recusal; the proper

¹ Supt. Michael Bowersox, Patricia Cornell, Don Roper, Ricky Fisher, Terrena Ballinger, Mike Kemna, Dwayne Kempker, Greg Hadley, Troy Wade, John – Rogers, Waylon Wilson, Kenneth Leeder, LaDonna M. Buckner, Princess Fahnestock, and Missouri Department of Corrections are collectively referred to as “Defendants”

recourse for a dissatisfied litigant is appeal.” *Id.* (quoting *Liteky v. United States*, 510 U.S. 540, 555 (1994)) (citing *Fletcher v. Conoco Pipe Line Co.*, 323 F.3d 661, 665-66 (8th Cir. 2003)).

Plaintiffs state three (3) reasons for their request. First, they allege the August 29, 2013, Order was contrary to well-established laws and rulings concerning censorship and First Amendment rights of prison inmates. (Doc. # 173). Second, they allege the August 29, 2013, Order failed to address the concerns that the Eighth Circuit specifically mentioned as the reasons for remanding the case. (*Id.*). Lastly, they allege they are seeking recusal so another judge can review the case to see if the August 29, 2013, Order was prejudicial toward Plaintiffs.² (*Id.*).

None of Plaintiffs’ reasons challenge this Judge’s impartiality. Plaintiffs’ exclusive reason requesting recusal is dissatisfaction with the August 29, 2013, Order. However, adverse judicial rulings rarely constitute a valid basis for removal and, as such, the Plaintiffs’ proper recourse is appeal. *See Dossett*, 399 F.3d at 953 (quoting *Liteky*, 510 U.S. at 555) (citing *Fletcher*, 323 F.3d at 665-66). Accordingly, it is

ORDERED Plaintiffs’ request for voluntary recusal is DENIED.

s/ Gary A. Fenner

Gary A. Fenner, Judge
United States District Court

DATED: October 31, 2013

² Plaintiffs’ third stated reason, as written, asks for recusal so another judge can review the case to see if the August 29, 2013, Order was prejudicial toward Defendants, although the Court assumes the Plaintiffs wish the August 29, 2013 Order, to be reviewed for prejudice towards Plaintiffs.